

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	RUBÉN CASTILLO	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	11 C 6610	DATE	10/20/2011
CASE TITLE	United States ex rel. Tobias Payton (#R-10454) vs. Warden Marcus Hardy		

**DOCKET ENTRY TEXT:**

The petitioner having paid the statutory filing fee, the respondent is ordered to answer the petition or otherwise plead within twenty-one days of the date of this order.

■ [For further details see text below.]

Docketing to mail notices.

## STATEMENT

Tobias Payton, an Illinois state prisoner, has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petitioner challenges his convictions for unlawful use of a weapon, home invasion, and aggravated battery with a firearm on the grounds that: (1) the evidence was insufficient to prove his guilt beyond a reasonable doubt; (2) he was denied a speedy trial; (3) his defense attorney was ineffective; (4) the trial court committed reversible error in allowing the State to introduce evidence of other crimes; and (5) the trial court abused its discretion in failing to investigate the petitioner's claim that his counsel's performance was deficient. The petitioner has paid the statutory filing fee, as directed. *See* Minute Order of September 23, 2011.

The petitioner maintains that he has exhausted state court remedies as to all claims raised in his habeas petition and appears to have filed this action in a timely manner. Accordingly, the respondent is ordered to answer the petition or otherwise plead within twenty-one days of the date this order is entered on the clerk's docket. This preliminary order to respond does not, of course, preclude the State from making whatever waiver, exhaustion or timeliness arguments it may wish to present.

The petitioner is instructed to file all future papers concerning this action with the Clerk of Court in care of the Prisoner Correspondent. The petitioner must provide the court with the original plus a judge's copy (including a complete copy of any exhibits) of every document filed. In addition, the petitioner must send an  
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**STATEMENT (continued)**

exact copy of any court filing to the Chief, Criminal Appeals Division, Attorney General's Office, 100 West Randolph Street, 12<sup>th</sup> Floor, Chicago, Illinois 60601. Every document filed by the petitioner must include a certificate of service stating to whom exact copies were sent and the date of mailing. Any paper that is sent directly to the judge or that otherwise fails to comply with these instructions may be disregarded by the court or returned to the petitioner.